



# COMMONWEALTH of VIRGINIA

## CHESAPEAKE BAY LOCAL ASSISTANCE DEPARTMENT

W. Tayloe Murphy, Jr.  
Secretary of Natural Resources

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September 19, 2002

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(804) 225-3440  
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Mr. Matt Stafford, Planning Director  
Caroline County  
PO Box 424  
Bowling Green, Virginia 22427

### **Re: Locating Ponds/BMPs in Resource Protection Areas (RPA)**

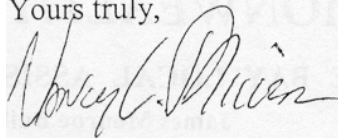
Mr. Stafford:

Thank you for your call on September 5, 2002, inquiring about the possibility of locating ponds and BMPs in RPA streams and how such projects should be addressed under the Bay Act. Please note that this response is based solely on this question and does not address any specific site.

1. According to Caroline County's Zoning Ordinance, Chesapeake Bay Preservation Area Overlay District, Article XV. Section 17.9. 2., "Development in RPAs may be allowed only if it: (i) is water-dependent; or (ii) constitutes redevelopment."
2. The BMP is not considered a water-dependent facility and therefore is not permitted by right in the RPA.
3. Therefore, an applicant would have to apply to the County for an exception to the above requirements in order for the BMP to be placed in the stream because the BMP would impact the RPA. Furthermore, any exception would require all state and federal permits and the submission of a WQIA as required under Section 17.9.3 of the County's Chesapeake Bay Preservation Area Overlay District.
4. Finally, since the placement of a BMP in the stream channel would, in effect, expand the limits of the water body with perennial flow, the RPA buffer would be required to be designated landward of the new banks of the BMP, should the County approve its construction.

We appreciate the opportunity to provide input regarding Bay Act requirements to the County. Please do not hesitate to contact me at (804) 225-3441 or toll-free at 1-800-CHESBAY if you have additional questions.

Yours truly,

A handwritten signature in black ink, appearing to read "Nancy L. Miller". The signature is fluid and cursive, with the first name "Nancy" being more prominent.

Nancy L. Miller  
Senior Environmental Planner

Cc: Shawn Smith, Principal Environmental Planner